

KEPPEL OPP'N EXH. 52

1 CONFIDENTIAL - LEONG PENG TAN
2 UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF NEW YORK
3 Case No. 18-CV-01047 (PGG)

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4 EIG ENERGY FUND XIV, L.P.,
5 EIG ENERGY FUND XIV-A, L.P.,
6 EIG ENERGY FUND XIV-B, L.P.,
7 EIG ENERGY FUND XIV (CAYMAN), L.P.,
8 EIG ENERGY FUND XV, L.P.,
9 EIG ENERGY FUND XV-A, L.P.,
10 EIG ENERGY FUND XV-B, L.P., and
11 EIG ENERGY FUND XV (CAYMAN), L.P.,
12 Plaintiffs,

13 - against -
14 KEPPEL OFFSHORE & MARINE LTD.,
15 Defendant.

-----X

16 * * * CONFIDENTIAL * * *
17 30(b)(6) DEPOSITION
18 VIA ZOOM VIDEOCONFERENCING
19 OF
20 KEPPEL OFFSHORE & MARINE LTD.
21 BY AND THROUGH
22 LEONG PENG TAN
23 Thursday, July 15, 2021
24 Reported By:
 LINDA J. GREENSTEIN
25 JOB NO. 4662403

1 CONFIDENTIAL - LEONG PENG TAN

2 A. What has been admitted and what
3 has been for the bribery case, what has
4 been admitted for the bribery case did say
5 it's all inside the DPA. You have to
6 decipher from that.

7 Q. Mr. Tan, can you please answer
8 the question, okay? The question is not
9 about the DPA --

10 A. I already answered.

11 Q. No, you actually haven't.
12 The question is, do you know the
13 identities of any Keppel employees or
14 agents who were involved in the bribery
15 scheme involving Sete?

16 MR. BARBUR: Objection. Asked
17 and answered. You're just fighting
18 with the witness and it's
19 inappropriate.

20 BY MS. PAK:

21 Q. You can answer the question, Mr.
22 Tan.

23 A. I say, I repeat again. I think
24 the document is clear and you just have to
25 refer to the documents.

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2 Q. But the document doesn't refer
3 to any identities of individuals who were
4 involved in a bribery scheme; right, sir?

5 MR. BARBUR: Objection to the
6 form of the question. Calls for a
7 legal conclusion.

8 BY MS. PAK:

9 Q. Please answer the question.

10 A. Same.

11 Q. Can you please point me to where
12 in the DPA it reveals the identities of any
13 individuals from Keppel who were involved
14 in the bribery scheme involving Sete?

15 A. What I think is refer to all the
16 executives and the e-mail is there. You
17 can refer to that.

18 Q. And you're referring to the
19 executives who you testified you don't know
20 the identities of --

21 A. You ask me what has been stated
22 there as Executive 1, 2 and which of the
23 consultant who is the Brazilian -- it's all
24 stated there.

25 Q. I appreciate that. But you

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2 testified that you don't know yourself and
3 no one at KOM knows the identities of the
4 executives referred to in the Deferred
5 Prosecution Agreement; is that right, sir?

6 A. That's right.

7 Q. So sitting here today, you don't
8 know the names of any Keppel employees or
9 agents who were involved in the bribery
10 scheme involving Sete; right, sir?

11 A. That's right.

12 Q. Will you turn to pages A-4 to
13 A-5.

14 The section is titled "Overview
15 of the Bribery Scheme."

16 Let me know when you're there.

17 A. "Overview of the Bribery
18 Scheme"? Yes, there.

19 Q. And paragraph 19 states:

20 "In or about and between 2001
21 and 2014, KOM, together with others,
22 including executives of KOM USA, knowingly
23 and willfully conspired to pay, and paid,
24 bribes in connection with 13 projects in
25 Brazil tendered by Petrobras and Sete

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2 Brazil."

3 Do you see that, sir?

4 A. Yes.

5 Q. And the way that this bribe
6 scheme worked was that Keppel Offshore &
7 Marine secured the contract by paying a
8 percentage of the price of the contract to
9 Petrobras Sete; right, sir?

10 A. That what, paragraph 19 say?

11 "Knowingly and willfully
12 conspired to pay, and paid, bribes in
13 connection with 13" -- people -- "projects
14 in Brazil."

15 Q. And Keppel paid bribes equal to
16 a percentage of the value of the contracts
17 that it secured with Sete and Petrobras;
18 right, sir?

19 A. Say that again?

20 Q. Let me read it.

21 And Keppel paid bribes equal to
22 a percentage of the value of the contracts
23 that it secured with Sete and Petrobras;
24 right, sir?

25 A. Yes, that's right.

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2 Q. And the bribery scheme involving
3 Sete was an extension of the bribery scheme
4 that Keppel had carried out for years with
5 Petrobras; right, sir?

6 A. I don't know that.

7 Q. If you look at paragraph 18 on
8 the last line, it says:

9 "In or around 2011, this scheme
10 was extended to projects awarded by Sete
11 Brazil."

12 Do you see that?

13 A. Yes.

14 Q. Does this refresh your
15 recollection as to whether or not the
16 bribery scheme involving Sete was an
17 extension of the bribery scheme that Keppel
18 had carried out for years with Petrobras?

19 A. Yeah -- yes.

20 Q. And if you look at paragraph 20,
21 it states that:

22 The bribes by KOM "amounted to
23 approximately \$55 million paid corruptly
24 for the benefit of foreign officials,
25 including Brazilian Official 1 and

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2 these documents before you right now?

3 MR. BARBUR: Objection.

4 Asked and answered.

5 A. And you have to be referenced to
6 the DPA documents and the e-mails.

7 Q. Well, you testified earlier that
8 you're speculating, but you agree that KOM
9 Executive 1 is CH Tong; right, sir?

10 MR. BARBUR: Objection. Asked
11 and answered. Mischaracterizes the
12 witness's testimony.

13 A. Based on Jeff e-mail, I can
14 assume -- I can only assume. I can only
15 guess that what you're referring to, that
16 you put as CHT is CH Tong and YY as YY
17 Chow.

18 Q. And Mr. Chow at this time was
19 employed by KOM; correct?

20 A. That's right.

21 MS. PAK: I'm going to show you
22 another document but I want you to
23 keep the hard copy of the DPA in front
24 of you.

25 I've just marked as Plaintiffs'

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2 Exhibit 81 an e-mail Bates stamped

3 KEPPEL00046214.

4 (Plaintiffs' Exhibit 81
5 for identification, one-page document,
6 e-mail thread, production numbers
7 KEPPEL00046214, shown to the witness.)

8 BY MS. PAK:

9 Q. Let me know when you see it.

10 A. Okay. I've seen it. Sorry.

11 Q. You said you see it?

12 A. Yes.

13 Q. Okay. And if you compare this
14 e-mail, the bottom e-mail, which is the
15 third e-mail, from Mr. Zwi to Jeff Chow
16 cc'ing Tommy Sam, March 30, 2012, subject
17 line: "Sete Contract," and he writes:

18 "Jeff, I am having pressure from
19 my partners about my contract."

20 Do you see that, sir?

21 A. Yes.

22 Q. Can you compare this e-mail,
23 which is Plaintiffs' Exhibit 81, to
24 paragraph 75 of the DPA and let me know if
25 that refreshes your recollection as to who

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2 KOM Executive 5 is.

3 A. Which part of that DPA again?

4 Sorry.

5 Q. Paragraph 75.

6 A. Yes.

7 Q. Who is KOM Executive 5?

8 A. As per the e-mail, Tommy Sam.

9 Q. And what is his position at this
10 time?

11 A. Tommy Sam -- he's the CFO of
12 BrasFELS.

13 Q. Was he the CFO of BrasFELS
14 between 2010 and 2012? I understand it
15 went longer, but does that cover that time
16 period?

17 A. Sorry -- you're asking me 2010
18 to 2012, right?

19 Q. Yes.

20 A. Yes, I think so.

21 Q. And how long did he remain the
22 CFO of Brasfels?

23 A. I think it's up to about around
24 2015.

25 Q. And did he hold any positions at

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2 KOM between 2010 and 2015?

3 A. No.

4 Q. He did not hold any executive
5 positions at KOM between 2010 and 2015?

6 A. No.

7 Q. Well, sir, if you look at
8 paragraph 12 of the DPA, it states that:

9 "KOM Executive 5 held an
10 executive position at KOM and at KOM USA in
11 or about and between 2012 and 2017."

12 Are you denying that?

13 MR. BARBUR: The question again,
14 is he denying what's in the DPA?

15 MS. PAK: Well, he just did, so
16 I'm asking him --

17 MR. BARBUR: I object to the
18 mischaracterization.

19 BY MS. PAK:

20 Q. Well, it's a question, Mr. Tan.

21 Are you denying that portion of
22 paragraph 12 of the Statement of Facts?

23 Mr. Tan, I don't know if you
24 know that there's a question pending or if
25 you're reading a document to refresh your

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2 recollection.

3 A. Sorry, I needed some time to
4 read the document.

5 MR. BARBUR: Do you know what
6 the question is?

7 THE WITNESS: Yes.

8 MR. BARBUR: Okay.

9 A. I don't know what KOM executive
10 position here.

11 Q. But do you agree that he held a
12 KOM executive position at least from 2012
13 to 2017?

14 A. Yes, according to DPA.

15 Q. All right. You could put away
16 this document.

17 Mr. Tan, are you familiar with
18 the rig project?

19 A. Yes.

20 Q. What does the rig project refer
21 to?

22 A. Drilling rigs. And my guess is
23 that he is referring to the Sete projects,
24 which we are building six semi-submersible.

25 Q. Well, are you aware that at some

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2 point Petrobras announced the need for 28
3 offshore drilling rig units in Brazil?

4 A. Yes.

5 Q. And in preparing for this
6 deposition, did you learn that Petrobras
7 referred to strategy for constructing and
8 financing those 28 offshore drilling rig
9 units as the Rigs Project?

10 A. I'm not aware.

11 Q. Do you disagree with that
12 statement?

13 MR. BARBUR: What statement?

14 A. Yeah, what statement?

15 Q. Do you disagree that the Rigs
16 Project refers to Petrobras's strategy for
17 constructing and financing the 28 offshore
18 drilling rig units that it needed?

19 MR. BARBUR: That that's what
20 Petrobras called it?

21 MS. PAK: Peter, just let him
22 answer the question, please. Okay?

23 MR. BARBUR: I object to the
24 form of the question. It's unclear
25 what you're asking.

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2 BY MS. PAK:

3 Q. Mr. Tan, can you please answer
4 the question?

5 A. Sorry, can you just repeat the
6 question again?

7 Q. What do you understand the Rigs
8 Project to mean with respect to Petrobras's
9 need for 28 offshore drilling rig units?

10 A. Petrobras has announced that
11 they needed drilling rigs for the offshore
12 exploration.

13 Q. And do you recall around when
14 that announcement was made?

15 A. 2009.

16 Q. Okay. And when did Keppel first
17 learn about the Rigs Project?

18 A. I think it's 2009.

19 Q. How did Keppel learn about the
20 Rigs Project?

21 A. The announcement for the rig.

22 Q. Did Keppel receive information
23 about the Rigs Project, outside of the
24 announcement, directly from employees of
25 Petrobras?

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2 A. No.

3 Q. Your testimony is no?

4 A. I don't know, I don't know.

5 Q. Okay. I understand.

6 In or around 2010, did Keppel
7 submit any bids directly to Petrobras
8 entity to build rigs in connection with the
9 Rigs Project?

10 A. Yes.

11 Q. What do you know about the bid
12 that Keppel submitted directly to Petrobras
13 entity in connection with the Rigs Project?

14 A. We have submitted to build two
15 semi-submersible and one -- and seven
16 drillship. We submitted -- sorry, let me
17 rephrase that.

18 Petrobras has turned out three
19 bids, of which two of the bids is for them
20 to build the units, and for these two bids
21 we have bidden directly to Petrobras. And
22 one of the bid is for two semi-submersible
23 and the other bid is for seven drillship.

24 Q. And when did Keppel first submit
25 its bid in connection with the Rigs

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2 Project?

3 A. You're referring to the
4 Petrobras bid?

5 Q. Yes.

6 A. 2010.

7 Q. Do you know around when in 2010?

8 A. Oh, I think it's in -- I -- I
9 can only remember I think it's somewhere,
10 sometime in Q2.

11 Q. In Q2. Okay.

12 And which Keppel entity
13 submitted that bid, do you know?

14 A. The BrasFELS.

15 Q. And do you know, I think you
16 testified to this, but just to be clear,
17 how many rigs did Keppel, through BrasFELS,
18 bid for in 2010 in connection with the Rigs
19 Project?

20 A. I think it to be very clear that
21 rig here, there's actually three bids, so
22 can you be very specific when you ask for
23 the bids.

24 Q. Okay. So with respect to the
25 two rigs, how many rigs did Keppel bid for

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2 in 2010?

3 A. Two.

4 Q. And with respect to the lots of
5 seven rigs, how many bids did Keppel -- how
6 many rigs did Keppel bid for in --

7 A. Seven, seven.

8 Q. Okay.

9 MS. PAK: I'm going to mark an
10 exhibit.

11 BY MS. PAK:

12 Q. And were you involved, Mr. Tan,
13 at all, with the two bids that you just
14 referred to that were submitted by BrasFELS
15 in 2010?

16 A. Yes, I'm involved as mechanical
17 guy.

18 Q. So earlier I had asked you if
19 you had been involved in any projects
20 relating to Petrobras before 2011 and you
21 had said you did not, I believe.

22 But this is a bid that you're
23 saying that you were involved with;
24 correct?

25 A. Correct. Project and bids is

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2 different.

3 MS. PAK: So I've just marked as
4 Plaintiffs' Exhibit 82 an e-mail chain
5 with all of its attachments, Bates
6 stamped KEPPEL00405967 to 6000.

7 Let me know when you have it.

8 A. Okay.

9 (Exhibit 82 for
10 identification, multi-page document,
11 e-mail with attachments, production
12 numbers KEPPEL00405967 through 6000,
13 shown to the witness.)

14 BY MS. PAK:

15 Q. All right. And this e-mail
16 chain, if you want to just look over it, is
17 referring to at least one of the bids that
18 BrasFELS submitted on behalf of Keppel in
19 2010; correct?

20 A. Yes.

21 Q. And if you look at the subject
22 line for each of these e-mails, it says,
23 "2DRU/7DRU circular 47."

24 Do you see that?

25 A. Yes.

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2 Q. So the "2DRU" refers to the bid
3 you just talked about, where Keppel
4 submitted a bid for two rigs, and "7DRU"
5 refers to the second bid we talked about,
6 where Keppel submitted a bid for seven
7 drilling rig units; is that correct?

8 A. Yes.

9 Q. And what does "circular 47"
10 refer to?

11 A. If I can remember correctly,
12 it's a clarification circular.

13 Q. You said a clarification
14 circular?

15 A. It's a what?

16 Q. Did you say a clarification
17 circular?

18 A. Yes.

19 Q. Okay. And if you look at the
20 third e-mail on the first page, it's an
21 e-mail from Sithu Min, S-I-T-H-U M-I-N, to
22 you and a bunch of people, cc'ing Kai
23 Choong Kwok, K-A-I C-H-O-O-N-G K-W-O-K,
24 and Tommy Sam.

25 Do you see that, sir?

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2 A. Yes.

3 Q. What was Mr. Kai Choong Kwok's
4 position at this time?

5 A. He's the president of BrasFELS.

6 Q. Say that again? He was the
7 president of BrasFELS?

8 A. Yes.

9 Q. And did he hold any position at
10 KOM at any point between 2010 and 2015?

11 A. Not then, no.

12 Q. And do you know -- if I refer to
13 him as KC Kwok, if I reference Kai Choong
14 Kwok as "KC Kwok" during this deposition,
15 will you understand what I'm referring to?

16 A. Yes.

17 Q. And was Mr. KC Kwok ever found
18 to have been involved in the bribery scheme
19 involving Sete?

20 A. Like I said, due to the
21 departure of KC Kwok during that period of
22 time, I guess that he's involved.

23 Q. So KOM's entire knowledge as to
24 whether or not Mr. Kwok was involved in the
25 bribery scheme relating to Sete is based

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2 solely on the fact that he departed in 2017
3 from Keppel? Was that a yes?

4 A. That's my guess.

5 Q. So you have no knowledge as to
6 whether or not Mr. Kwok was involved in the
7 bribery scheme involving Sete.

8 Is that your testimony today?

9 A. That's right.

10 Q. Okay. Just try to refrain from
11 saying "um" or "uh-hmm." It's just very
12 hard for the court reporter to take that
13 down.

14 A. Okay.

15 Q. And who did Mr. KC Kwok report
16 to during this time?

17 A. Mr. Chow, Mr. YY Chow.

18 Q. Are you referring to YY Chow?

19 A. Yes.

20 Q. And who were you reporting to at
21 this time?

22 A. Mr. Aziz Merchant.

23 Q. And if you look at the second
24 e-mail, there's an e-mail from Mr. Chin
25 Wong Tey to a whole bunch of people, and he

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2 says: "Dear All, latest CRT.

3 "We have qualified for the
4 technical proposal."

5 Do you see that, sir?

6 A. Yes.

7 Q. What does he mean when he says
8 that Keppel has qualified for the technical
9 proposal?

10 A. I can't remember.

11 Q. Okay. And do you know what CR2
12 refers to -- "CRT"?

13 A. I think it's -- again, it's a
14 clarification.

15 Q. Say that again?

16 A. Clarification.

17 Q. Clarification. Okay. I
18 understand. And do you know what came of
19 Keppel's bid?

20 A. Sorry, can you repeat again?

21 Q. Do you know what the result of
22 Keppel's bid for the seven rigs was?

23 A. We lost.

24 Q. And do you know what the result
25 of Keppel's bid for the two rigs was?

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2 And if you look at the bottom
3 e-mail, Mr. Choo writes, and this is dated
4 October 5, 2010:

5 "We have a discussion here in
6 Rio on why we lost all the latest FPSOs to
7 Quipp partners and why we lost the P55 and
8 why for the 28 units it appeared we are
9 pricing higher than JSL, EAS?"

10 Do you see that, sir?

11 A. Yes.

12 Q. And FPSOs refers to the floating
13 platforms; right, sir?

14 A. Say again, referring to?

15 Q. FPSOs, what does that refer to?

16 A. Floating production -- floating
17 production and storage offloading.

18 Q. And JSL and EAS, those refer to
19 the Jurong and Estaleiro shipyards; is that
20 correct?

21 A. I believe so. I guess.

22 Q. And Mr. Choo here is referring
23 to the fact that Keppel has priced its bid
24 higher for rates than JSL, EAS; correct?

25 A. That's what the e-mail say.

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2 Q. And when he refers to the
3 28 units, he's referring to the Rigs
4 Project; correct, sir?

5 A. Yes.

6 Q. And if you look at the last line
7 of the e-mail, he writes:

8 "Are we so scared of winning new
9 contracts that we are allowing so much
10 contingencies that we priced ourselves
11 out."

12 Do you see that, sir?

13 A. Yes.

14 Q. What is Keppel's understanding
15 as to what he's referring to in this last
16 line?

17 A. This e-mail is written by CB
18 Choo. If you ask me to interpret what he
19 means, I will guess that in every project
20 when we do a costing we vow to have a
21 contingency period, okay, to kick off all
22 the project risks.

23 So I believe what he means is
24 that in our costing, we must have put quite
25 a high number for our contingency.

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2 Q. Okay. And just so we have a
3 clear record, you said "we have a
4 contingency period" for what?

5 A. For project execution risk.
6 For --

7 Q. For project execution risk.
8 Is that what you said?

9 A. That's right.

10 Q. Okay. Thank you.

11 And do you know whether Mr. Choo
12 was ever found to have been involved in any
13 bribery scheme relating to Sete Brazil?

14 A. Again, I think with his
15 departure around that time, I guess so.

16 Q. Okay. And if you look at the
17 top e-mail, Mr. Choo again is writing to
18 executives of KOM or KOM subsidiaries, and
19 it's dated October 5, 2010, again, and he
20 writes:

21 "It is a pity, as our yard in
22 Angara is executing well, very well."

23 Do you see that, sir?

24 A. Yes.

25 Q. And the yard in Angara refers to

1 CONFIDENTIAL - LEONG PENG TAN

2 Keppel shipyard in Brazil; right, sir?

3 A. It refer to BrasFELS.

4 Q. And he says: "But under the
5 rules, we must bid to win."

6 Do you see that, sir?

7 A. Yes.

8 Q. What do you understand him to
9 mean when he says, "But under the rules, we
10 must bid to win"?

11 A. Again, this is an e-mail written
12 by CB Choo, but you ask me to guess.

13 I guess that he's saying that
14 based on the tender rules.

15 Q. Is he referring to the fact that
16 notwithstanding the bribes that Keppel was
17 willing to pay, Keppel had to bid in order
18 to win a contract because the bidding
19 process was made public?

20 A. Yes, we still have to bid.

21 Q. Okay. And if you look further
22 down the e-mail, he says:

23 "We need YY to be full-time in
24 Rio, as our marketing and commercial
25 depends almost wholly on Zwi and we need to

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2 work like Brazilians to win."

3 Do you see that, sir?

4 A. Yes.

5 Q. And "YY" likely refers to YY
6 Chow; right, sir?

7 A. Yes.

8 Q. And when he says "Zwi," he's
9 talking about Zwi Skornicki; right, sir?

10 A. You are saying "we need YY,"
11 that "we"?

12 Q. No. Okay.

13 When he says "Zwi," Z-W-I --

14 A. Oh, Zwi.

15 Q. Yes. He's referring to Mr.
16 Skornicki; right, sir?

17 A. Yeah, I believe so.

18 Q. And why did Mr. CB Choo want YY
19 Chow to be full-time in Rio at this time?

20 A. I wouldn't know that.

21 Q. Okay. Do you know if Mr. YY
22 Chow's involvement in Brazil increased in
23 around this time period?

24 A. Yes.

25 Q. Do you know why -- I'm sorry. I

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2 C E R T I F I C A T E

3
4 I, Linda J. Greenstein, Professional
5 Shorthand Reporter and Notary Public in and
6 for the State of New York, do hereby
7 certify that, LEONG PENG TAN, the witness
8 whose deposition is hereinbefore set forth,
9 was duly sworn and that such deposition is
10 a true record of the testimony given by the
11 witness to the best of my skill and
12 ability.

13 I further certify that I am neither
14 related to or employed by any of the
15 parties in or counsel to this action, nor
16 am I financially interested in the outcome
17 of this action.

18 IN WITNESS WHEREOF, I have hereunto set
19 my hand this 16th day of July 2021.

20
21 

22 Linda J. Greenstein

23
24 My commission expires: January 30, 2025
25